

REMARKS

Claims 1, 2, 4, 23, 25 and 27-31 are pending in this application. Claims 1, 23 and 25 have been amended, and claim 32 has been added by the present Amendment. Amended claims 1, 23 and 25 and new claim 32 do not introduce any new subject matter.

REJECTIONS UNDER 35 U.S.C. § 103

Reconsideration is respectfully requested of the rejection of claims 1, 2, 4, 23, 25 and 27-30 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,238,964 ("Cho") in view of U.S. Patent No. 6,303,490 ("Jeng").

Applicants respectfully submit that Cho, when taken alone or in combination with Jeng, does not disclose or suggest an interlayer dielectric formed on the capacitor, wherein a portion of the interlayer dielectric is overetched to expose the second upper electrode, and a thickness of the first and second upper electrodes prevents overetching of the upper electrode, as recited in amended claims 1, 23 and 25. Further, Applicants respectfully submit that it would not have been obvious to modify Cho in view of Jeng to develop same.

Both Cho and Jeng fail to disclose an interlayer dielectric that is overetched and a thickness of the first and second upper electrodes that prevents overetching of the upper electrode, as recited in claims 1 and 23. Indeed, neither of the cited references discuss overetching.¹

Therefore, Applicants respectfully submit that claims 1, 23 and 25 are patentable

¹ Applicants also note that U.S. Patent No. 6,461,914 ("Roberts") does not disclose the claimed overetching. Indeed, in stark contrast, Roberts employs different etch chemistries so as not to completely etch an ESL layer 75. See Roberts, col. 6, lines 3-22. Accordingly, Roberts teaches a different approach than the claimed feature of preventing overetching with a thickness of first and second upper electrodes.

over Cho in view of Jeng. In addition, for at least the reason that claims 2, 4 and 28 depend from claim 1, claim 29 depends from claim 23, and claims 27 and 30 depend from claim 25, claims 2, 4 and 27-30 are also submitted to be patentable over the cited references.

Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claims 1, 2, 4, 23, 25 and 27-30 under 35 U.S.C. § 103(a).

Reconsideration is respectfully requested of the rejection of claim 31 under 35 U.S.C. § 103(a) as being unpatentable over Cho in view of Jeng as applied to claims 1, 2, 4, 23, 25 and 27-30, and further in view of U.S. Patent No. 6,461,914 ("Roberts").

Applicants respectfully submit that Cho, when taken alone or in combination with Jeng and/or Roberts, does not disclose or suggest an interlayer dielectric formed on the capacitor, wherein a portion of the interlayer dielectric is overetched to expose the second upper electrode, and a thickness of the first and second upper electrodes prevents overetching of the upper electrode, as recited in amended claim 25.

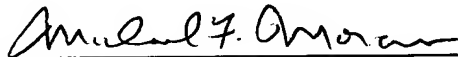
As stated above, Cho, Jeng and Roberts do not disclose or suggest this feature. Accordingly, the claimed features are not rendered obvious by the combination of the cited references.

Therefore, Applicants respectfully submit that claim 25 is patentable over Cho in view of Jeng as applied to claims 1, 2, 4, 23, 25 and 27-30, and further in view of Roberts. In addition, for at least the reason that claim 31 depends from claim 25, claim 31 is also submitted to be patentable over the cited references.

Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claim 31 under 35 U.S.C. § 103(a).

An early and favorable reconsideration is earnestly solicited. If the Examiner has any further questions or comments, the Examiner may telephone Applicants' Attorney to reach a prompt disposition of this application.

Respectfully submitted,

A handwritten signature in cursive script, reading "Michael F. Morano", written in dark ink.

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